IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

CRP.No. 2176 of 2000(F)

OP.178/1999 of ADDL. DISTRICT COURT, THALASSERY
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REVN. PETITIONER/RESPONDENT:

THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY THE CHAIRMAN,
VYDHYUDHI BHAVANAM, PATTOM,
THIRUVANANTHAPURAM- 4.

BY ADV. SRI.C.K.KARUNAKARAN, SC, KSEB
SRI.A.SUDHI VASUDEVAN, SC, KSEB

RESPONDENT/PETITIONER:

P.CHANDUKUTTY NAIR, S/O.CHINDAN NAMBIAR,
AGED 55 YEARS, POTHARA HOUSE, PURAKKUNNU P.O.
TALIPARAMBA.

BY ADV. SRI.K.S.MADHUSOODANAN
SRI.C.P.PEETHAMBARAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/11/2007, ALONG WITH C.R.P.NO.1479/2001 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P.No.998/2003 IN C.R.P.No.2176/2000

DISMISSED

7.11.2007 **Sd/- HARUN-UL-RASHID,JUDGE**

TRUE COPY

P.A TO JUDGE

HARUN-UL-RASHID,J

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C.R.P.Nos.2176 of 2000,
1479 & 2575 of 2001
&
1396 of 2003

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Dated this the 7th day of November, 2007

ORDER

These civil revision petitions arise out of O.P.(Ele) Nos.178/99, 25/99, 679/99 and 524/99 respectively on the file of the Additional District Court, Thalasserry. The common question of law and fact arising in all these cases is what would be the amount of compensation for trees cut and removed by the K.S.E.B who are the revision petitioners in these revision petitions. The matter was taken up before the Honourable Supreme Court for deciding the question stated above. Ultimately the court disposed of all the special leave petitions by passing a common judgment in C.A.No.1810/2006 and connected cases. The Honourable Supreme Court in para 10 and 11 of the judgment explain the principles to be applied for fixing the compensation, which reads as follows:

> "10.The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage relevant factors in our opinion would be determinative. The value of the land

> would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used.
> 11. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. In para 11 it was held that compensation in relation to fruit bearing trees would depend upon the facts and circumstances of each cases. Therefore, the Honourable Supreme Court directed that the High Court to consider the matter afresh on the merits. Counsels on both sides submitted that in view of the Supreme Court decision, the matter requires a denovo consideration and requested this Court that an opportunity may be given to them to adduce additional evidence if any.

3. Apart from the matters dealt with by the Supreme Court similar and connected matters were pending before this Court and this Court by different judgments considered the similar questions and also after relying on the decision of the Supreme Court in these cases namely **K.S.E.B v. Livisha 2007 (3) KLT 1(SC)** set aside the orders under challenge and directed the court below to consider the matter afresh.

4. It is submitted by the counsel for K.S.E.B that, in view of the fact that the compensation which has to be determined in each and every cases would depend upon the facts and circumstances of each cases and therefore a fresh consideration by the court below is necessary in the matter of fixation of compensation. The counsel also submitted that they may be afforded an opportunity to adduce such further evidence and produce such other materials to substantiate their contentions in the light of the decision of the Honurable Supreme Court in K.S.E.B v. Livisha. In the light of the fact that additional evidence has to be adduced by both sides and the fact that each cases has to be decided on the facts and circumstances of each cases and the fact that decision has to be taken by following the principles laid down by Supreme Court in K.S.E.B v. Livisha, I am of the view that the orders under revision are liable to be set aside and the court below should be directed to consider the matter afresh.

Accordingly all these revision petitions are allowed and order under revisions are set aside. The court below shall afford an opportunity to either side to produce such other materials and

evidence and shall dispose of the case in the light of Supreme Court decision and based on the oral and documentary evidence available in these cases as expeditiously as possible. No order as to cost.

HARUN-UL-RASHID, JUDGE

dvs